

SENATE CHAMBER,
AUSTIN, TEXAS, Monday, March 27, 1871. }

Senate met pursuant to adjournment; Senator Flanagan, President *pro tem.*, presiding.

Roll called; quorum present.

Absent—excused—President Campbell and Senator Ruby.

Prayer by the Chaplain.

Pending reading of the journal of Friday, a message was received from the Governor by his private secretary, as follows:

GOVERNOR'S OFFICE,
AUSTIN, March 24, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: I return the act entitled "An act authorizing C. C. DeWitt and T. M. Harwood, of Gonzales county, to construct a bridge across the Guadalupe river, near the town of Gonzales, in Gonzales county," which originated in your House.

A number of charters for bridge companies have been passed at this and the last session of the Legislature, giving exclusive and monopolizing privileges, and they have become laws, though there is some doubt about the effect, on such grants, of the eighteenth section, article first, of the Constitution. But this act has so many objectionable features that I must suppose the Legislature, in the hurry of business, has overlooked them.

1. It gives these corporators the sole and exclusive privilege of building a bridge within a limit of ten miles along the Guadalupe river (five miles above and five miles below Gonzales).

2. It gives this privilege for all time to come.

3. It forbids even so much as a ferry boat to be placed on that river, between those limits, for all time to come.

4. It gives these corporators the very long term of five years to complete their bridge, and in the mean time it forbids any other person to put a ferry across that river within those limits.

5. The rates of toll provided are excessive, considering that Guadalupe is quite a narrow river.

This act seems clearly to come under the protection of said section eighteen of the Constitution. "Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed;" but if we had no such provision in the Constitution, good policy would seem to forbid this class of legislation.

I have to request that same to be reconsidered by your honorable body.

Very respectfully,

EDMUND J. DAVIS,
Governor.

On motion of Senator Baker the message was referred to a select committee of three. The President appointed on said committee Senators Baker, Bowers, Pridgen.

Reading of the journal resumed.

On motion of Senator Pridgen the journals were corrected to show that Senate bill 168, "An act to incorporate the Galveston and Denver City Air Line Railway and to promote the construction thereof," was read a third time, the same having been omitted in Friday's journal.

PETITIONS AND MEMORIALS.

By Senator Mills : Petition of Joseph H. Durham and others.

Read and referred to the Committee on State Affairs.

The Secretary carried to the House for signature enrolled Senate bill No. 101, "An act to amend the first section of an act entitled 'an act defining the office and duties of notaries public,' passed May 13, 1846, approved March 5, 1863."

Senate bill No. 229, "An act to incorporate the Star State Saving Association."

Senate bill No. 66, "An act to incorporate the Callahan Cotton Seed Oil Manufacturing Company, of Hempstead, Texas."

Enrolled bills signed by the Speaker of the House, returned and signed by the President of the Senate.

Also, for concurrence, Senate bill No. 168, "An act to incorporate the Galveston and Denver City Air Line Railway, and to promote the construction thereof."

By Senator Saylor : "A petition from the citizens of Milam county protesting against the division of the county." Read and referred to the Committee on Counties and County Boundaries.

By Senator Dohoney: "A petition of citizens of Lamar county, asking amendment of the act prohibiting sale of intoxicating liquors in the vicinity of Shiloh Male and Female Academy." Read and referred to the Committee on Education.

REPORTS OF STANDING COMMITTEES.

Reports of Committee on Judiciary :

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred House bill No. 391, entitled "An act to amend an act entitled 'an act prescribing the times of holding the district courts in the several judicial districts in the State,' approved August 10, 1870," instruct me to report the same back, with the recommendation that it do pass.

Respectfully,
A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred House bill No. 120, entitled "An act to authorize the presiding justices of the several counties to perform certain acts for the benefit of idiots and insane persons," ask leave respectfully to report the same back to the Senate, and recommend its passage.

A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM.
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Judiciary to whom was referred House bill No. 81, entitled "An act to authorize the county courts of the several counties of this State to sell one set of the Texas Supreme Court reports, now the property of their respective counties," instruct me to report the same back and ask that it do not pass

Respectfully,
A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred House bill No. 69, entitled, "An act to amend an act entitled 'An act to

organize the courts of justices of the peace and county courts, and to define their jurisdiction and duties," approved August 13, 1870," having carefully considered the same, instruct me to report the bill back and recommend its passage.

Respectfully,

A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred House bill No. 29, entitled "An act to amend an act entitled 'an act to adopt and establish a penal code for the State of Texas,'" ask leave to report the same back and recommend its passage.

A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred House bill No. 28, entitled "An act to amend an act entitled 'an act to adopt and establish a penal code for the State of Texas,' approved August 23, A. D. 1856," ask leave to report the same back and recommend its passage.

A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred Senate bill No. 239, entitled "An act exempting telegraphic operators in this State from serving on juries and in the State Militia," ask leave to report the same back and recommend its passage.

A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Judiciary, to whom was referred Senate bill No. 215, entitled "An act to amend section 471 of an act entitled 'a code of criminal procedure,' " ask leave to report the same back and recommend that it do not pass.

A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Judiciary, to whom was referred Senate bill No. 197, entitled "An act requiring the clerk of the District Court of Lamar county to index the records of his office, and providing for his payment therefor." ask leave to report the same back and recommend its passage.

A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Judiciary, to whom was referred Senate bill No. 194, entitled "An act to amend section three of an act concerning divorce and alimony," ask leave to report the same back to the Senate with the recommendation that the bill be laid upon the table.

A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Judiciary, to whom was referred Senate bill No. 184, entitled "An act to amend the Penal Code," having carefully considered the same, instruct me to report the bill back and recommend its passage.

Respectfully,

A. J. FOUNTAIN,
Chairman.

Reports read and laid over under the rules.

Reports of Committee on State Affairs :

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR: Your Committee on State Affairs, to whom was referred Senate bill No. 245, entitled "An act to incorporate the Galveston and Bolivar Point Wharf and Cotton Press Company," have carefully considered the same and instruct me to report it back with the following amendments, and recommend its passage: Amend by striking out section four.

S. W. FORD,
Chairman of Committee.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR: Your Committee on State Affairs, to whom was referred Senate bill No. 256, entitled "An act to incorporate the Board of Fund Commissioners of the Trinity Conference M. E. Church South," have carefully considered the same, and instruct me to report it back without amendments, and recommend its passage.

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR: Your Committee on State Affairs, to whom was referred Senate bill No. 265, "An act to incorporate the Paris Real Estate and Banking Association," have carefully considered the same, and instruct me to report it back without amendments and recommend its passage.

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR: Your Committee on State Affairs, to whom was referred Senate bill No. 266, entitled "An act to incorporate the Waco City

Cemetery Association," have carefully considered the same, and recommend its passage without amendments.

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your Committee on State Affairs, to whom House bill No. 33 was referred, entitled "An act to incorporate the Austin Gymnastic Association," have carefully considered the same, and instruct me to report it back, with the following amendment, and recommend its passage.

S. W. FORD,
Chairman.

Amend by striking out "section two."

COMMITTEE ROOM,
AUSTIN, March 24, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your Committee on State Affairs, to whom was referred House bill No. 60, have carefully considered the same and respectfully report it back with the following amendments and recommend that it do pass. Amend section four, line sixteen, strike out the word "tax" and insert the word "fine;" same line, strike out the word "levied" and insert the word "imposed."

S. W. FORD,
Chairman.

Reports read and laid over under the rules.

Reports of Committee on Education :

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your Committee on Education, to whom was referred Senate bill No. 259, entitled "An act to incorporate the Lebanon High School," have had the same under careful consideration, and the majority thereof instruct me to report it back to the Senate with the following amendments, and recommend that it do pass.

E. PETTIT,
Chairman.

Amendments : After word "named," second line, section two, insert word "persons;" also, same section, line twelve, strike out

word "moneys," and after "value," in same line, insert "also all moneys;" also, line twelve, section three, strike out "or any;" also, in line twenty-two, same section, after word "any" insert the word "property."

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Education, to whom was referred Senate bill No. 260, entitled "An act to prohibit the sale of ardent spirits and other intoxicating liquors within certain limits of Lebanon High School," have had the same under careful consideration, and the majority thereof instruct me to report it back with the following amendment and recommend that it do pass.

E. PETTIT,
Chairman.

Amendment: Section one, line seven, strike out word "three" and insert "two."

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Education, to whom was referred Senate bill No. 268, entitled "An act to incorporate the Texas Dental Association," have had the same under careful consideration, and the majority thereof instruct me to report it back to the Senate with the recommendation that it do pass.

E. PETTIT,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Education, to whom was referred Senate bill No. 271, entitled "An act to prohibit the sale of intoxicating or spiritous liquors within the vicinity of Owensville," have had the same under careful consideration, and the majority thereof instruct me to report that the subject matter of said bill is entirely unconnected with education, and beg leave to be discharged from further consideration of the bill.

E. PETTIT, Chairman.

Reports read and laid over under the rules.

On motion of Senator Pettit, the rules were suspended to con-

sider the report of the Committee on Education, on Senate bill No. 271.

On motion of Senator Mills, Senate bill No. 271 was referred to the Committee on State Affairs.

Senator Bell submitted the following report of the Committee on Internal Improvements :

COMMITTEE ROOM,
AUSTIN, March 27, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your Committee on Internal Improvements, to whom was referred Senate bill No. 272, entitled "An act to incorporate the Sherman and Red River Railroad Company," have had the same under consideration, and, after careful examination, report favorably, and ask that it do pass.

WEBSTER FLANAGAN,
Chairman.

Report read and laid over under the rules.

Reports of Committee on Roads, Bridges and Ferries :

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your committee to whom was referred House bill No. 296, have had the same under consideration and report the same back to the Senate and recommend its passage.

Yours,

JOHN G. BELL,
Chairman of Committee.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon DON CAMPBELL,

President of the Senate :

SIR : Your committee to whom was referred House bill No. 270, have had the same under consideration and report the same back and recommend its passage.

Yours,

JOHN G. BELL,
Chairman Committee.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR : Your committee to whom was referred House bill No. 179, have had the same under consideration, and report it back to the Senate and recommend its passage.

Yours,

JOHN G. BELL,
Chairman of Committee.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR : Your committee to whom was referred House bill No. 133, have had the same under consideration, and report the same back to the Senate and recommend its passage.

Yours,

JOHN G. BELL,
Chairman of Committee.

Reports read and laid over under the rules.

Report of the Committee on Contingent Expenses :—

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR : Your Committee on Contingent Expenses have had the following bills under consideration and recommend that they be paid, viz :

Account of	Bahn & Schuman.....	\$ 55 00
do	A. B. Palm.....	284 43
do	Loomis & Christian.	270 50
do	John F. Patton	17 75
do	R. Platt.....	5 00
do	Harry Hawkins	5 00
do	V. Teagarden.....	42 00

The account of Tracy, Siemering & Co. has been called for by your committee, but it is in the hands of Committee on Printing, and not yet acted upon.

Persons having claims against the Senate will call upon the Secretary, and on receiving their vouchers will receipt for the same.

J. S. MILLS,
Chairman of Committee.

On motion of Senator Mills the rules were suspended to consider the report, and on further motion the report was adopted and the several accounts allowed.

Reports of Committees on Counties and County Boundaries :

COMMITTEE ROOM,
AUSTIN, March 24, 1871.

Hon. DON CAMPBELL,

President of the Senate.

SIR: Your Committee on Counties and County Boundaries, to whom was referred House joint resolution No. 24, have had the same under consideration, and beg leave to recommend its passage.

P. W. HALL,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 23, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 421, "An act to create the county of Tegener," have carefully examined the same, and recommend that it do pass.

P. W. HALL,
Chairman.

Reports read and laid over under the rules.

Reports of Committee on Agricultural Affairs :

COMMITTEE ROOM,
AUSTIN, March 27, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Agricultural Affairs, to whom was referred House bill No. 207, "An act to incorporate the Central Texas Agricultural and Mechanical Association," have had the same under consideration, and recommend that it do pass.

HENRY RAWSON,

Chairman.

COMMITTEE ROOM,
AUSTIN, March 27, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Agricultural Affairs, to whom was referred House bill No. 237, "An act to incorporate the Collin County, Texas, Agricultural, Horticultural and Mechanical Association,"

have had the same under consideration and beg to report the same back with recommendation. that it do pass.

HENRY RAWSON,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 27, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR: Your Committee on Agricultural Affairs, to whom was referred House bill No. 307, "An act for the protection of the growth of pecan timber, have had the same under consideration, and beg leave to report the same back, and recommend that it do pass.

HENRY RAWSON,
Chairman

Reports read and laid over under the rules.

Report of Committee on Claims and Accounts :

COMMITTEE ROOM,
AUSTIN, March 27, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR: Your Committee on Claims and Accounts, to whom was referred House bill No. 465, "An act for the relief of G. F. B. Vega," have had the same under consideration, and beg leave to return the same to your honorable body, and recommend that it do not pass.

HENRY RAWSON,
Chairman.

Report read and laid over under the rules.

Report of Committee on Finance :

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR: Your Committee on Finance, to whom was referred House bill No. 44, entitled "An act to make an appropriation to pay the late assessors and collectors for taking the scholastic census in the several counties of this State," have had the same under consideration, and would ask leave to return it to the Senate with the recommendation that it do pass.

Very respectfully,

W. A. SAYLOR, Chairman.

Report read and laid over under the rules.

11 o'clock, A. M.

The hour having arrived for the consideration of the special or-

der, substitute Senate bill No. 166, "An act to establish a system of public free schools in the State of Texas,"

On motion of Senator Fountain, the special order was postponed for thirty minutes.

Senator Douglass submitted the following report of the Select Committee on Division of the State.

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: A majority of your select committee instructed by resolution to report upon the subject of a division of the State, with authority to confer with a committee of the House appointed for the same purpose, have had the subject under consideration and conference, and beg leave to report the accompanying bill and recommend its passage.

Your committee have thought it unnecessary to report at length the many reasons which have influenced them in recommending a division of the State, but would submit briefly the following report upon the subject:

As Texas comprises one-thirteenth of all the territory of the United States (including Alaska), and as her fertility of soil and mildness of climate will attract more than her ratio of population, they regard division as a political necessity, which may be defeated only for a short time, becoming more pressing and imperative with each year's growth and development of the distinct and powerful sections included within her broad limits. They are led to this conclusion by admitting the fact conceded by all that one of the greatest beauties of our form of government is its large reservation of powers to the local State governments, by the recognition of the principle that the liberty and prosperity of the people require that each natural division of territory of sufficient population to accomplish with facility the ends of local government, should be left to regulate its own local affairs. This principle is as ancient and universal as federal government itself, and when violated, the beauty of government is marred, and corresponding inconveniences felt, in proportion as States are larger than is necessary to give the required population and wealth to maintain local government. The whole theory of our government rests upon this foundation, else State governments are unnecessary, and only serve to increase the burdens of our people.

Since the General Government throws its shield of protection over all the States, the requisite population and wealth of a State is only to be considered with reference to the accomplishment of the objects

of local government. Prominent among these objects are the administration of justice, the promotion of education, the encouragement of industries, agricultural and mechanical, the promotion of commerce, by aiding in the construction of works of internal improvement; and it is the especial duty of each local government to afford facilities for the development of such peculiar resources as nature has bestowed upon its particular locality. Your committee are of opinion that each and all of these objects could be more easily and perfectly attained, by the people of Texas, if her territory were divided into smaller States. In the enforcement of the laws, and the administration of justice, grave difficulties are encountered in so large a State. Populous sections are hundreds of miles from the office of the Executive and the seat of the Supreme Court. Many important Executive acts are, in effect and of necessity, performed by agencies. The right of appeal in criminal cases, and the privilege of applying to the highest tribunal of the State for the writ of *habeas corpus*, is almost denied the citizen of the more remote parts of the State, and even in civil suits the mature wisdom of the Supreme Court can only be invoked at great expense.

The difficulties in the way of establishing a uniform system of public free schools have been encountered by this Legislature, and nothing is more perplexing than the diversified wants of the different sections. In the older and more densely populated counties there are few difficulties in the way of such a system, but it cannot be successfully carried into effect in the sparsely settled counties of the frontier, without placing undue burdens on the other portions of the State, while it would be unjust to establish free schools in the densely populated counties, leaving unprovided those which are sparsely populated, since all bear equally the burden of taxation for this purpose. The same difficulties exist in reference to aiding in the construction of railroads and other internal improvements. It is difficult to grant aid to any single road, or any limited number of roads, without imposing burdens upon portions of our people without corresponding benefits.

Any effort at the encouragement of agricultural or mechanical pursuits in such a State must be fraught with injustice, since the products of the different sections are greatly diversified and dissimilar.

The east has its cotton, lumber and iron manufacturing interests, which require legislative aid, either directly or indirectly, while the west and central portions of the State require protection to their herdsmen from the incursions of savages and other legislative aid. To accomplish either object or protect either interest, is to inflict an injustice upon the other.

The east languishes from a want of facilities for transporting her products to market, while the west suffers equally from want of encouragement to immigration, and to accomplish either object by taxation is productive of discontent.

Your committee submit that a division of our State was contemplated by the hardy pioneers whose courage and fortitude gave Texas to American civilization, as an evidence of which they need only refer to the articles of annexation which received the sanction of the young republic, and was the work of Houston, Henderson and Van Zandt. Such a subdivision of our territory has also the sanction of all American statesmanship, as seen in the subdivision of the territory of Virginia, Georgia and Louisiana, and that acquired from Mexico into States and Territories of convenient size.

Your committee have considered the subject of boundary lines with reference not only to the area of territory, but to a division of population, taxable property, productive capacity of soil, facilities for commerce as well as distinct systems of internal improvements, and they believe that the future development of our territory will not materially mar the equality which they have obtained, between the proposed new States, while an additional new State may be in future formed out of the northern portion of the remaining territory.

Under the enumeration of population of 1870, and by the Comptroller's report of assessments for 1869, the three States would represent as follows:

The proposed eastern State—Population, 346,389; value of taxable property, \$44,641,454; area of territory in square miles, 38,411; registered voters, 49,660.

The proposed western State—Population, 200,000; value of taxable property, \$41,000,000; area of territory (including Bexar Territory) 93,000; registered voters, 30,000.

The State of Texas—Population, 280,000; value of taxable property, \$64,023,932; area of territory (square miles) 110,000; registered voters, 55,893.

Your committee suggest that the smallest of the proposed States would be equal in population and wealth to Texas 1850, fourteen years after she achieved her independence of Mexico and became a sovereign State. They believe that the time has arrived as contemplated by the authors of the articles of annexation, when our territory should be divided into States of convenient size. That delay is only calculated to increase the difficulties in the way of that which must and will be accomplished soon. They, therefore, earnestly recommend the passage of the accompanying bill, submitting the question to the people for their action at the next general election.

Respectfully submitted,

J. P. DOUGLASS, Chairman of Committee.

Bill reported by select committee : A bill (Senate bill No. 281) to be entitled "An act to provide for the erection of two new States within the jurisdiction of the State of Texas."

Report and bill read first time and laid over under the rules.

Senator Dohoney submitted the following separate report of the Committee on Division of the State :

AUSTIN, Texas, March 27, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : The undersigned, a member of your select committee on division of the State, begs leave to submit the following separate report, to-wit :

I concur with the majority of your committee as to the necessity for a division of the State, but differ with them as to the plan of division.

The question of "division" has never been agitated in my part of the State ; but I am satisfied that a majority of the people of Northern Texas, so far as they favor division at all, would much prefer a new State north of parallel 32 of north latitude, and this is my individual preference, for reasons which need not now be stated. And I have considered the propriety of reporting a bill proposing such a new State, but have arrived at the conclusion that such a step, if it availed anything, would only result in the defeat of the division movement. If a northern State were cut off, on parallel 32, it would necessitate a division of the balance of the State on the Brazos river. The east stands unalterably opposed to a northern State, and the west is equally opposed to division on the Brazos river. A proposition to erect a new State in the north would certainly receive the combined opposition of the east and west, and could only hope to defeat this combination by receiving aid from the opponents of division. The anti-divisionists, having defeated the combination of the east and west, would then turn upon the north, and, aided to some extent by the east and west, would easily crush the whole division movement.

Rather than have no division at all, I am, as an individual, willing to accept the plan presented by the majority of the committee, proposing two new States, one east of the Trinity river, and the other west of the Colorado. And, as a Senator from the northern part of the State, I am willing to support the bill recommended by the majority, which simply submits the question to the vote of the entire people of the State as to whether the State will give her "consent" to the erection of the proposed two new States. Whilst, then, as an individual I am willing to accept an eastern State, as the

representative of the people I agree to nothing that is not submitted to their decision, because this question has never been before the people, and I have no instructions from my constituents. I am willing for the people of the entire State to decide whether division shall prevail; and I leave to the friends of division in Northern Texas the responsibility of determining for themselves whether they will accept an eastern State, or defeat the division movement for the present, and risk the chances of presenting their plan of division at some future time.

I, therefore, with these explanations, concur in the majority report, and recommend the passage of the bill reported.

E. L. DOHONEY.

Report read and laid over under the rules.

On motion of Senator Pyle, 250 copies of the reports and Senate bill No. 281 were ordered to be printed for the use of the Senate.

Senator Douglass moved a suspension of the rules, to make Senate bill No. 281 the special order for Wednesday, at 11 o'clock A. M.

Yeas and nays called for, and the motion to suspend the rules lost by the following vote:

Yeas—Baker, Dillard, Dohoney, Douglass, Evans, Flanagan, Hall, Hertzberg, Latimer, Pettit, Pickett, Pridgen, Pyle, Rawson—14.

Nays—Bell, Bowers, Braughton, Ford, Fountain, Gaines, Hillebrandt, Mills, Parsons, Saylor, Shannon, Tendick—12.

BILLS AND RESOLUTIONS.

By Senator Saylor: A bill (Senate bill No. 282) to be entitled "An act to remove the minority of Charles Marley, of Burleson county." Read first time and referred to the Committee on Judiciary.

Also, a bill (Senate bill No. 283) to be entitled "An act to incorporate the Texas Sleeping Car Company." Read first time and referred to the Committee on Judiciary.

By Senator Tendick: A bill (Senate bill No. 284) to be entitled "An act to incorporate Columbus Lodge No. 51, I. O. O. F." Read first time and referred to the Committee on State Affairs.

Senator Ford offered the following resolution:

Resolved, That the chairman of any committee of the Senate, who has no clerk, may apply to the President of the Senate, and, upon showing to him that there is sufficient business before said committee to warrant the employment of a clerk, he may, upon the recommendation of the chairman, appoint a clerk for said committee.

Senator Pettit made the point of order that the resolution was not in order, the subject having been acted on by the Senate, and the motion to reconsider laid on the table.

The President decided the point of order not well taken, and the resolution to be in order.

On motion of Senator Pickett, the resolution was laid on the table.

BILLS—Resumed.

By Senator Pettit: A bill (Senate bill No. 285) to be entitled "An act to validate certain acts of the County Court of Van Zandt county." Read first time and referred to Committee on Judiciary.

Also, a bill (Senate bill No. 283) to be entitled "An act to provide for the improvement of the navigation of the Trinity river." Read first time and referred to the Committee on Internal Improvements.

By Senator Mills: A bill (Senate bill No. 287) to be entitled "An act to provide for the permanent location of the county seat of Grimes county." Read first time.

On motion of Senator Saylor the rules were suspended, Senate bill No. 287 read second time and referred to the Committee on Counties and County Boundaries.

Senator Dohoney submitted the following report of the Committee on Engrossed Bills:

COMMITTEE ROOM,
AUSTIN, March 27, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills having examined and compared Senate bills No. 30, "An act to incorporate the city of Rockport;" No. 137, "An act to incorporate the Sabine and Neches Mutual Insurance Company;" No. 182, "An act to incorporate the Tyler Tap Railroad Company;" No. 241, "An act to incorporate the Mansfield Male and Female College, in Tarrant county;" No. 270, "An act making an appropriation for the purpose of having certain general indexes in the General Land Office copied;" No. 274, "An act for the relief of the heirs of Charles G. Bryant, deceased;" No. 275, "An act to provide for the relief of the heirs of Andrew Jackson Bryant, deceased;" No. 280, an act to be entitled "An act amendatory of an act to be entitled 'an act to amend an act prescribing the times of holding the district courts in the several judicial districts in the State, approved August 10, 1870,' approved March 4, 1871;" No. 279, "An act to incorporate the

Belton Bridge Company," and substitute Senate bill No. 3, "An act to incorporate Houston Gewerbe Verein, city of Houston, Harris county, for benevolent purposes," find the same to be correctly engrossed.

E. L. DOHONEY,
P. W. HALL.

Report read and received.

On motion of Senator Baker the rules were suspended to take from file House bill No. 313, "An act giving the consent of the State of Texas to the purchase by the United States of land within the State, for public purposes." Read first time.

On motion of Senator Baker the rules were further suspended and House bill No. 313 read second and third times and passed.

The hour having arrived for the consideration of the postponed special order substitute Senate bill No. 166,

On motion of Senator Fountain the special order was postponed for fifteen minutes.

The following House bills were taken from file, read the first time and referred as follows:

To the Committee on State Affairs.

House bill No. 202, "An act to incorporate the city of Dallas, in Dallas county, Texas."

House bill No. 469, "An act to incorporate the Galveston Hibernian Society."

House bill No. 309, "An act concerning guaranteed regulations by counties and other corporations."

House bill No. 283, "An act to incorporate Waco Lodge No. 92, Ancient Free and Accepted Masons."

To the Committee on Internal Improvements:

House bill No. 267, "An act in relation to the Atlantic and Pacific Railroad Company."

House bill No. 389, "An act to incorporate the Indianola, San-Antonio and El Paso Railroad Company."

To the Committee on Judiciary:

House bill No. 200, "An act further regulating proceedings in the several courts of the State of Texas."

House bill No. 146, "An act to legalize the official acts of I. A. Lee, of Coryell county."

House bill No. 158, "An act to amend the second section of an act entitled 'an act defining the homestead and other property exempt from forced sale in this State,' approved August 15, 1870."

House bill No. 212, "An act to amend the seventy-first and ninety-second sections of 'an act to regulate proceedings in the District Courts,' approved May 13, 1870."

House bill No. 251, "An act to amend chapter one, of title twelve, of the penal code of the State of Texas."

House bill No. 259, "An act for the removal of the administration of certain estates from the District Court of Polk county to the District Court of San Jacinto county."

House bill No. 260, "An act amendatory of an act entitled 'an act prescribing the times of holding the district courts in the several judicial districts in the State,' approved August 10, 1870."

House bill No. 264, "An act to amend an act entitled 'an act prescribing the times of holding the district courts in the several judicial districts in the State,' approved August 10, 1870."

House bill No. 268, "An act to amend an act entitled 'an act to dispense with the use of scrolls and seals in certain cases,' approved February 2, A. D. 1858."

House bill No. 269, "An act for the protection of poor persons in cases of appeal in civil suits."

To the Committee on Education :

House bill No. 412, "An act to incorporate Cedar Male and Female Institute."

House bill No. 466, "An act to incorporate the Blufton Male and Female Academy."

House bill No. 468, "An act to repeal 'an act to prohibit the sale of spirituous liquors within three miles of Woodland College,'"

To the Committee on Roads, Bridges and Ferries :

House bill No. 292, "An act granting to B. F. Colbert the privilege of constructing a ferry across Red River."

House bill No. 325, "An act to authorize M. A. Tucker to erect a toll bridge over Big creek, near the Limestone and Falls county line."

House bill No. 326, "An act to authorize M. A. Tucker to erect a toll bridge over Christmas creek, in Limestone county, Texas."

House bill No. 427, "An act to authorize C. Duncan and G. W. Patten to erect a toll bridge over Aquilla creek, in the county of McLennan, Texas."

House bill No. 192, "An act to incorporate the Cedar Bar Company."

House bill No. 132, "An act amendatory of an act approved October 1, 1866, entitled 'an act granting to James L. Tarver the privilege of constructing a ferry across Big Cypress.'"

Message from the House by Chief Clerk informing the Senate that the House had passed Senate bill No. 28, "An act to provide for the employment of private clerks for the judges of the Supreme Court."

Also, for signature, enrolled House bill No. 180, "An act

authorizing Car Forrest to erect a toll bridge over Chambers creek, in Ellis county, Texas."

Enrolled bill signed by the President and returned to the House.

On motion of Senator Dohoney, the rules were suspended to take from file House joint resolution No. 25, "Joint resolution requiring the Comptroller of Public Accounts to re-transfer to the State revenue account the sum of thirty-five thousand nine hundred and fifty dollars and five cents, heretofore erroneously transferred from said revenue account to the available school fund account." Read first time.

On motion of Senator Pridgen, the rules were further suspended and Senate joint resolution No. 25 was read second and third times and passed.

UNFINISHED BUSINESS.

Senate bill No. 77, "An act for the relief of A. H. Cook."

Read third time and passed by the following vote.

Yeas—Baker, Bowers, Cole, Dillard, Dohoney, Evans, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Latimer, Pettit, Pridgen, Pyle, Rawson, Shannon, Tendick—20.

Nays—Bell, Saylor—2.

12 o'CLOCK, M.

The hour having arrived for the consideration of the special order, House bill No. 115, "An act to regulate the keeping and bearing of deadly weapons,"

On motion of Senator Gaines, House bill No. 115 was postponed and made the special order for 10:30 o'clock A. M. to-morrow.

• Second special order, substitute for Senate bill No. 166, to be entitled "An act to organize and maintain a system of public free schools in the State of Texas."

On motion of Senator Parsons, the Senate took a recess for five minutes.

IN SENATE.

No quorum present.

Senator Fountain moved a call of the Senate.

Call sustained.

Absent—Mr. President, Senators Braughton, Cole, Latimer, Mills, Parsons, Pridgen, Saylor.

Absent—excused—Senator Ruby.

The absentees answering to their names, on motion of Senator Fountain, the call was suspended.

The question being on the adoption of the substitute of Senator Pickett for the amendment of Senator Fountain,

Senator Fountain withdrew his amendment.

Senator Pickett offered his substitute as an amendment, as follows :

Amend section six by inserting after the word "competency," lines twenty-four and twenty-five, the words "and that when such child or ward may have been in ill health or where no public school is established within one mile of the residence of such child or ward."

Senator Fountain offered the following substitute for the amendment :

Amend by inserting in line twenty-five, after the word "competency," "or when it may be shown that said child or ward was prevented by ill health from attending school, or that there was no public school within three miles of the residence of said child or ward, or that said absence was caused by reason of danger from hostile Indians."

Amend by adding after the word "section," in line twenty-seven, the following words : "and further provided that nothing in this act shall be so construed as to compel the attendance of a child under ten years of age on the public free schools when there is no school established within one mile of the residence of said child or ward."

Amendment adopted.

Senator Bowers moved to amend by striking out the words "three miles" and inserting in lieu thereof the words "one and a half miles."

Amendment lost.

Senator Pickett offered the following amendment : Amend section six, line twenty-five, after the word "competency," by inserting the words "which may be a certificate of qualification from any institution of learning, or from a county board of three examiners, to be appointed by the county court of each county in the State to examine private teachers."

Yeas and nays called for and lost by the following vote :

Yeas—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Latimer, Pickett, Pyle, Rawson, Shannon—11.

Nays—Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Pridgen, Saylor, Tendick—14.

Senator Dohoney offered the following amendment :

Move to amend section six by striking out all after the word "attend," in line ten, and before the word "provided," at the end of line twenty, and insert in lieu thereof the words "shall forfeit his or her interest in the public school funds."

Yeas and nays called for and lost by the following vote :

Yeas—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Latimer, Pickett, Pyle, Rawson, Shannon—11.

Nays—Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Saylor, Tendick—13.

Senator Fountain moved that substitute Senate bill No. 166 be engrossed and passed to a third reading.

Yeas and nays called for, and the motion to engross carried by the following vote:

Yeas—Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Saylor, Tendick—13.

Nays—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Latimer, Pickett, Pyle, Rawson, Shannon—11.

Senator Douglass was excused from voting, having paired with Senator Ruby.

Senator Flanagan was excused from voting, having paired with President Campbell.

On motion of Senator Fountain, the Senate adjourned to 3 o'clock P. M.

AFTERNOON SESSION.

3 o'clock P. M.

Senator Flanagan, President *pro tem.*, presiding.

Roll called; no quorum present.

Senator Braughton moved to adjourn to 10 o'clock A. M.

Yeas and nays called for and lost by the following vote:

Yeas—Braughton, Dohoney, Ford—3.

Nays—Bell, Cole, Evans, Flanagan, Fountain, Gaines, Hillebrandt, Latimer, Pridgen, Shannon—10.

Quorum present.

Absent—Mr. President, Bowers, Dillard, Gaines, Parsons, Saylor, Tendick.

Absent—excused—Senator Ruby.

On motion of Senator Mills, the rules were suspended, to take from file House bill No. 194, "An act to incorporate the Huntsville Branch Railway Company." Read second time.

On motion of Senator Braughton, the rules were further suspended and House bill No. 194 was read third time and passed.

On motion of Senator Pettit, the rules were suspended to take from file Senate bill No. 277, to be entitled "An act for the relief of John G. Boyle." Read second time.

Senator Pettit moved that Senate bill No. 277 be engrossed and passed to a third reading, upon which motion the yeas and nays were called for and carried by the following vote :

Yeas—Baker, Bell, Cole, Ford, Fountain, Hall, Hertzberg, Hillebrandt, Latimer, Mills, Pettit, Pridgen, Pyle, Rawson, Tendick—15.

Nays—Broughton, Dohoney, Douglass, Evans, Flanagan, Shannon—6.

On motion of Senator Mills, the rules were further suspended, Senate bill No. 277 read third time, and passed by the following vote :

Yeas—Baker, Bell, Cole, Flanagan, Ford, Fountain, Hall, Hertzberg, Hillebrandt, Latimer, Mills, Pettit, Pridgen, Pyle, Rawson, Tendick—16.

Nays—Broughton, Dohoney, Douglass, Evans, Shannon—5.

On motion of Senator Hall the rules were suspended to take from file Senate bill No. 220, to be entitled "An act to incorporate the Calvert, Brazos and Belton Railroad Company." Read second time.

Senator Hall moved to amend by striking out the word "Brazos" wherever it occurs in the bill, which amendment was adopted.

Senator Hall offered the following amendment which was adopted :

In line six, after the word Sheppard insert the following names : J. Cicero Jenkins, C. G. Forshey, Elisha Embree, R. W. Latham, of New Jersey.

Senator Hall offered the following amendments which were adopted :

Section four, line six, strike out word "two" and insert "one."

Section six, line fourteen, strike out "near to" and insert "within one mile of."

Section fourteen, line fifty-five, insert after the word "inches" "and to use any character of rails they may select."

Section fifteen : This company shall be entitled to receive such donations of land as are provided for the encouragement of internal improvements, by any general law of this State now in force, or that may hereafter be in force, upon the terms and conditions in such law prescribed.

Senate bill No. 220 ordered engrossed and passed to a third reading, as amended.

On motion of Senator Broughton, the rules were further suspended, Senate bill No. 220 read third time and passed.

On motion of Senator Pickett, the rules were suspended to take from file Senate bill No. 248, to be entitled "An act for the relief

of James Henderson." Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Mills, the rules were further suspended, Senate bill No. 248 read third time and passed, by the following vote :

Yeas—Baker, Bell, Bowers, Braughton, Cole, Dillard, Evans, Flanagan, Ford, Fountain, Hall, Hertzberg, Hillebrandt, Mills, Pridgen, Pyle, Rawson, Saylor, Shannon, Tendick—20.

Nays—Douglass.

Senator Fountain moved that Senate rule No. 24 be suspended during the evening sessions. Lost.

On motion of Senator Pridgen, the rules were suspended to take from file Senate bill No. 89, to be entitled "An act incorporating the West Texas Road Steamer Transportation Company." Read second time.

On motion of Senator Pridgen, the substitute recommended by the select committee was adopted.

Substitute Senate bill No. 89 was ordered engrossed and passed to a third reading.

On motion of Senator Fountain, the rules were further suspended, substitute Senate bill No. 89 read third time and passed.

On motion of Senator Pyle, the rules were suspended to take from file Senate bill No. 250, to be entitled "an act to authorize Henry W. Jones, his associates and successors, to construct and keep a toll bridge on Sulphur Fork of Red river." Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Pyle, the rules were further suspended, and Senate bill No. 250 read third time and passed.

On motion of Senator Rawson, the rules were suspended to take from file Senate bill No. 226, to be entitled "An act to incorporate the Hebrew Benevolent Association of Marshall, Texas." Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Rawson, the rules were further suspended, Senate bill No. 226 read third time and passed.

On motion of Senator Saylor, the rules were suspended to take from file Senate bill No. 210, to be entitled "An act to incorporate the San Gabriel Bridge Company." Read second time, ordered engrossed, and passed to a third reading.

On motion of Senator Saylor, the rules were further suspended, Senate bill No. 210 read third time and passed.

On motion of Senator Shannon, the rules were suspended to take from file Senate bill No. 272, to be entitled "An act to incorporate the Sherman and Red River Railroad Company." Read second time, ordered engrossed, and passed to a third reading.

On motion of Senator Shannon, the rules were further suspended, Senate bill No. 272 read third time and passed.

On motion of Senator Tendick, the rules were suspended to take from file House bill No. 27, "An act for the relief of Judge M. B. Walker of the Supreme Court." Read second time.

On motion of Senator Mills, the rules were further suspended, House bill No. 27 read third time and passed by the following vote :

Yeas—Baker, Bell, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Hall, Hertzberg, Hillebrandt, Mills, Pettit, Pickett, Pridgen, Pyle, Rawson, Saylor, Tendick—19.

Nays—Evans, Shannon—2.

Senator Saylor moved to adjourn to 10 o'clock A. M. to-morrow, which motion was lost.

On motion of Senator Dillard, the rules were suspended to take from file House bill No. 41, "An act to repeal an act entitled 'an act to prevent the sale of vinous, spirituous or other intoxicating liquor within one mile of the centre of the town of Alto, in Cherokee county, in the State of Texas,' approved December 11, 1861." Read second time.

On motion of Senator Dillard, the rules were further suspended, House bill No. 41 read third time and passed.

On motion of Senator Dohoney, the rules were suspended to take from file House bill No. 202, "An act to incorporate the city of Dallas, in Dallas county, Texas." Read second time.

On motion of Senator Evans, the rules were further suspended, House bill 202 read third time and passed.

On motion of Senator Douglass, the rules were suspended to take from file Senate bill No. 150, to be entitled "An act to authorize certain persons therein named to operate a ferry on Sabine river, in Upshur county. Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Douglass, the rules were further suspended, Senate bill No. 150 read third time, and passed.

On motion of Senator Evans, the rules were suspended to take from file Senate bill No. 230, to be entitled "An act to incorporate the Grapevine Lodge No. 288 Free and Accepted Masons." Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Evans the rules were further suspended, Senate bill No. 230 read third time and passed.

On motion of Senator Flanagan, the rules were suspended to take from file Senate bill No. 246, to be entitled "An act granting a charter to James A. Mitcham to create, keep and run a ferry boat at the Bazett Landing or crossing on the Trinity river, in Henderson and Navarro counties." Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Bell, the rules were further suspended, Senate bill No. 246 read third time and passed.

On motion of Senator Ford, the rules were suspended to take from file Senate bill No. 266, to be entitled "An act to incorporate the Waco City Cemetery Association." Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Braughton, the rules were further suspended, Senate bill No. 266 read third time and passed.

On motion of Senator Fountain, the rules were suspended to take from file Senate bill No. 216, to be entitled "An act to incorporate the town of Socorro." Read second time.

Senator Fountain moved to strike out section twenty-seven, which motion was adopted.

Senate bill No. 216 ordered engrossed and passed to a third reading as amended.

On motion of Senator Fountain, the rules were further suspended, Senate bill No. 216 read third time and passed.

On motion of Senator Hall, the rules were suspended to take from file Senate bill No. 196, to be entitled "An act to incorporate the city of Hearne." Read second time, ordered engrossed, and passed to a third reading.

On motion of Senator Hall, the rules were further suspended, Senate bill No. 196 read third time and passed.

On motion of Senator Hertzberg, the rules were suspended to take from file House bill No. 25, "An act to incorporate the Gymnastic Association of New Braunfels, under the name and style of 'Turn Verein New Braunfels.'" Read second time.

On motion of Senator Hertzberg, section two was stricken out.

On motion of Senator Bell, the rules were further suspended, House bill No. 25 read third time and passed.

On motion of Senator Hillebrandt, the rules were suspended to take from file House bill No. 465, "An act for the relief of G. F. B. Vega." Read second time.

On motion of Senator Fountain, the rules were further suspended, House bill No. 465 read third time and passed by the following vote :

Yeas—Baker, Bell, Cole, Dillard, Flanagan, Ford, Fountain, Hall, Hillebrandt, Mills, Pettit, Pickett, Pyle, Saylor, Tendick—15.

Nays—Douglass, Evans, Hertzberg, Pridgen, Rawson, Shannon—6.

On motion of Senator Baker the Senate adjourned to 10 o'clock A. M. to-morrow.
